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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,995	12/21/2004	Junbiao Zhang	PU020308	7036

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Joseph J. Laks
Thomson Licensing LLC
2 Independence Way, Patent Operations
PO Box 5312
PRINCETON, NJ 08543

EXAMINER	
ANDRAMUNO, FRANKLIN S	
ART UNIT	PAPER NUMBER
2424	

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11/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/518,995	ZHANG ET AL.	
	Examiner	Art Unit	
	FRANKLIN S. ANDRAMUNO	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07/23/08*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable by Reynolds et al (US 2004/0045030 A1) in view of Hassan et al (US 6,301,231 B1). Hereinafter referred as Reynolds and Hassan.

Regarding claim 1 and 8, Reynolds discloses a system and method for downloading a video program **(Live Video (210) in figure 2)** using a mobile terminal, the method comprising the steps of: downloading, through one of a first radio access network **(page 17 paragraph (0142) lines 1-12)** and a second radio access network, the video program at respective first and second data transfer rates **(figure 3)**, when the mobile terminal is in a coverage area of the second radio access network **(Mobile phone (810) in figure 8)**; processing the downloaded video program at a playback rate **(Figure 9)**; buffering portions of the downloaded video program that result when a

rate at which the video program is downloaded exceeds the playback rate **(Live Buffer Cache (310) in figure 3)**; calculating a third data transfer rate, which is lower than the first data transfer rate, in response to the playback rate **(Real Player 40 Kb in figure 2)**, the buffered portions and a time duration of a remainder of the video program; and negotiating, with the first radio access network, the third data transfer rate for downloading the video program, when a difference between the first and third data transfer rates exceeds a threshold level **(Message to cellular customer in cell 2 (904) in figure 9)**.

However, Reynolds fails to teach the video program being downloaded at the second data transfer rate, which is faster than the first data transfer rate. Hassan discloses in **(column 2 lines 28-37)** a system wherein the current maximum data rate is less than the first data rate.

Therefore, it would have been obvious at the time of the invention to include the use of a change in transfer rate. This is a useful combination because a system is capable of choosing between a faster link for a reliable communication.

3. Claims 2-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds et al (US 2004/0045030 A1) in view of Hassan et al (US 6,301,231 B1) in view of Keaney et al (US 2006/0176968 A1). Hereinafter referred as Reynolds, Hassan, and Keaney.

Regarding claim 2 and 9, Reynolds discloses the system and method of claim 1, wherein the third data transfer rate is equal to Rp-B.sub.t/T where Rp is the playback

rate, B.sub.t is an amount of the buffered excess portions of the downloaded video program, and T is a time duration of the remainder of the video program to be played back **(page 11 paragraph (0081)). However Reynolds fails to disclose** that the buffered portion of the downloaded video is taken into account into the formula. Keaney teaches in **(page 6 paragraph (0082))** of the rate buffer block (514) the rate of the transmission takes into account the buffer of the remainder packets.

Therefore, it would have been obvious at the time of the invention to modify Reynolds teachings to include the use of the buffer block to calculate a new data rate. This is a useful process when determining new data rates when moving from different cells. This is also a useful process when transmitting video over the internet and adjusting the rate according to congestion.

Regarding claim 3 and 10, Reynolds discloses the system and method of claim 1, further comprising the step of continuing to download the video program from the first radio access network using the third data transfer rate when the mobile terminal leaves the coverage area of the second radio access network and is within the coverage area of the first radio access network **(page 26 paragraph (0237))**.

Regarding claim 4 and 11, Reynolds discloses the system and method of claim 1, wherein the negotiating step is performed when the mobile terminal is within the coverage area of the second radio access network **(Adjusting the degree of compression to compensate (page 27 paragraph (0238))**.

Regarding claim 5 and 12, Reynolds discloses the system and method of claim 1, wherein the negotiating step is performed after the mobile terminal leaves the

coverage area of the second radio access network **(The act of passing off the communication results in a backhaul channel from the previously active cellular transmitter to a central office for forwarding to a newly active cellular transmitter (page 27 paragraph (0237) lines 1-4)**.

Regarding claim 6 and 13, Reynolds discloses the system and method of claim 1, wherein the first radio access network is a 3G cellular network **(Network (220) in figure 2)**.

Regarding claim 7 and 14, Reynolds discloses the system and method of claim 1, wherein the second radio access network is a Wireless Local Area Network (WLAN) **(Wired or wireless in figure 7)**.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANKLIN S. ANDRAMUNO whose telephone number is (571)270-3004. The examiner can normally be reached on Mon-Thurs (7:30am - 5:00pm) alternate Fri off (EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571)272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2424